

The Office Action rejects claim 20 under 35 U.S.C. §102(b) over DE 3 517 122 to Schillig; rejects claims 1, 2, 5-7, 9-17, 43 and 44 under 35 U.S.C. §103(a) over Schillig in view of U.S. Patent No. 4,272,768 to Rookard Jr.; rejects claims 3 and 4 under 35 U.S.C. §103(a) over Schillig in view of Rookard and further in view of U.S. Patent No. 4,306,685 to Coffee; rejects claims 21-26, 28, 33, 34, 36, 38, 40, 41, 45 and 46 under 35 U.S.C. §103(a) over EP 0 014 993 to Hauptmann; and rejects claims 29-32 under 35 U.S.C. §103(a) over Hauptmann in view of U.S. Patent Application Publication No. 2003/0108487 to Bara. These rejections are respectfully traversed.

Regarding claim 20, the Office Action asserts that Schillig teaches all the features of claim 20. This assertion is incorrect for at least the following reasons. Claim 20 recites, among other features, a spray device comprising: a spray mechanism comprising a housing for receiving a vector gas supply. Schillig discloses a paint receptacle received in a paint spray device comprising a spray mechanism. The device of Schillig does not contain any housing for receiving a vector gas supply, as recited in claim 20. On the contrary, the spray device is configured for being connected to an arrival of vector gas. As such, Schillig does not teach, nor can it reasonably be considered to have suggested, all the features of claim 20.

Regarding claim 1, the Office Action concedes that Schillig fails to teach a reservoir with a configuration as recited in that claim. The Office Action relies on Rookard to remedy the shortfalls in Schillig with respect to certain features. The Office Action asserts that it would have been obvious to one of ordinary skill in the art to add the partition of Rookard's reservoir to the reservoir of Schillig in order to prevent uncontrollable sloshing, which results in a stable reservoir even when partially full, as taught by Rookard. The Office Action further asserts that it would have been obvious to one of ordinary skill in the art to spray cosmetic or care products from the spray device of Schillig as modified by Rookard in order to improve a

person's appearance. These assertions are not adequately supported by specific objective evidence in the prior art.

The assertion that it would have been obvious to one of ordinary skill in the art at the time of the invention to spray a cosmetic or care product from the spray device of Schillig as modified by Rookard in order to improve a person's appearance, has nothing to do with why one of ordinary skill in the art would have been motivated to combine the structural features of Schillig and Rookard. In other words, improving a person's appearance is not a result of combining the structures of Schillig and Rookard. The attempt by the Office Action to find obvious the positively recited features of the pending claims by resorting to such "motivation" does not comport with U.S. Patent Office rules that require the Examiner identify specific and objective evidence in prior art that would have lead one of ordinary skill in the art to combine the references in the manner suggested.

In this regard, the Office Action does not identify any objective evidence in the prior art to support its assertion that the Schillig device, which is described as used for spray painting objects such as a car door, would be appropriate and/or effective in applying cosmetics or care products to a human being in any way that would "improve a person's appearance."

Additionally, Rookard discloses a survival canteen comprising internal microwave reflective baffles which divide the canteen into various chambers. The baffles are noted as providing a canteen which can be comfortably worn when partially full and which does not exhibit the undesirable dynamic characteristics caused by undamped sloshing of the liquid contents. However, the type of sloshing caused by wearing a partially filled canteen does not correspond with any problems suggested by the handheld paint spray gun and canister configuration taught by Schillig. Moreover, the primary purpose of the microwave reflective

baffles in Rookard is to enable the canteen to constitute a highly reflective radar target, so that the user may be located if in distress.

One of ordinary skill in the art would not be motivated to combine the teaching of Rookard to provide the device of Schillig with a radar reflective partition at least because they are not analogous art and there is no necessity in the field of paint spray devices to be able to localize the user with a radar.

Claim 21 recites, a spray device for spraying at least one cosmetic substance contained in a reservoir, the substance being taken from the reservoir by suction created at an outlet orifice of the reservoir by a stream of vector gas, the vector gas being stored in a pressurized receptacle, said device comprising an adjustment valve for adjusting the flow rate of the sprayed substance and a control member capable of being operated by user to act both on a vector gas dispenser valve and on the adjustment valve, the adjustment valve comprising a plunger arranged to cooperate with an associated seat so that the flow rate of the sprayed substance varies with varying spacing between the seat and the plunger, the substance comprising a cosmetic or a care product.

Hauptmann discloses a spray device for spraying at least one substance contained in a reservoir. Hauptmann does not teach or suggest that the substance is a cosmetic or a care product, as recited in claim 21. Moreover, in the embodiment depicted in Fig. 1 of Hauptmann, the substance is taken from its reservoir 3 by a vector gas coming from a reservoir 4 through a channel 23 issuing in the reservoir 3 of substance. Hauptmann does not teach, nor can it reasonably be considered to have suggested, that suction is created at an outlet orifice of the reservoir, as recited in claim 21. Further, in the embodiment depicted in Fig. 2 of Hauptmann, the device of Hauptmann is deprived of any pressurized receptacle for the vector gas, as recited in claim 21. As such, Hauptmann does not teach, nor can it reasonably be considered to have suggested all of the features of claim 21.

None of the other prior art references are applied in a manner to overcome the identified shortfalls in Schillig or Hauptmann.

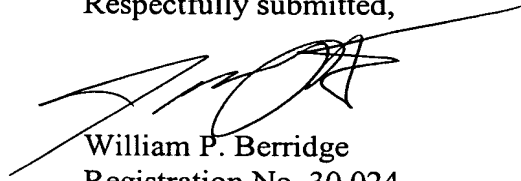
For at least the above reasons, the applied prior art references do not teach, nor can they reasonably be considered to have suggested, the combinations of all of the positively recited features of claims 1, 20 and 21. Additionally, claims 2-7, 9-17, 22-26, 28-34, 36, 38, 40, 41 and 43-46, are also neither taught, nor would they have been suggested, by the applied prior art references for at least the respective dependence of these claims, directly or indirectly, on allowable independent claims 1, 20 and 21, as well as for the separately patentable subject matter that each of these claims recites.

Accordingly, reconsideration and withdrawal of the rejection of claims 1-7, 9-17, 20-26, 28-34, 36, 38, 40, 41 and 43-46 over any combination of the applied prior art references are respectfully requested.

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of 1-7, 9-17, 20-26, 28-34, 36, 38, 40, 41 and 43-46, in addition to the indication of allowability regarding claims 8, 18, 19, 27, 35, 37, 39 and 42, are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



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